

Platte, Mark. "DNA links ex-officer to series of rapes: Crime: DA asserts that Samples taken from Henry Hubbard Jr. and evidence involving a string of rapes and Robberies committed last summer positively match." Los Angeles Times (1992).

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DNA evidence links former San Diego Police Officer Henry Hubbard Jr. to all seven rapes for which he is charged, according to court documents and a prosecutor's statement in court Thursday.

Hubbard, 29, a patrol officer for 4 1/2 years, was arrested last August on suspicion of a string of summer rapes and robberies along the beach from La Jolla to Solana Beach. He has pleaded not guilty to 38 counts of rape, robbery, attempted robbery, kidnaping, sexual battery and other charges.

During a Superior Court hearing Thursday, Deputy Dist. Atty. Stephen Anear asserted that DNA tests on evidence involving six of the sexual assault cases "positively match" samples taken from Hubbard.

In a seventh rape case charged against Hubbard last month, court records indicate that a similar DNA match was made.

Kerry Steigerwalt, Hubbard's attorney, said the prosecution has forwarded tests conducted by Cellmark Diagnostics that confirm the genetic comparisons.

"Does the DNA evidence concern me? Of course," he said. "It troubles me immensely. If I didn't have that result, I would have a very good case."

The probability that the evidence is from someone other than Hubbard varies in each case, from 1 in 27,000 to 1 in 2 billion, Steigerwalt said.

In fact, the range is higher, from 1 in 340,000 for one piece of evidence to 1 in 7.7 billion in another, law enforcement sources say.

Although DNA is certain to be introduced at trial, scheduled to begin June 29, Steigerwalt said he will attempt to keep out of court the "protocol" Cellmark used to come up with its astronomical odds that someone other than his client is responsible for the crimes.

"I'm hoping to keep out any kind of statistical testimony," he said.

Although Hubbard has been identified in a live lineup by seven of 14 victims, only two witnesses in all have been able to say for sure that Hubbard is black. That uncertainty benefits the defense, Steigerwalt said.

"More than half the witnesses said the assailant was white," Steigerwalt said. "One or two said Hispanic. One said Filipino."

In many of the assaults, the assailant wore a stocking cap over his head.

The use of DNA evidence in court, which seeks to match samples such as blood, semen and hair with evidence found at crime scenes, has increased steadily in recent years.

In January, the California Supreme Court bolstered its use by letting stand a state appeals court ruling issued last year rejecting a claim by a Ventura woman that DNA evidence was not scientifically reliable.

Attorneys for Cleophus Prince Jr. have argued this week during his preliminary hearing that Cellmark Diagnostics inappropriately uses small samples of population from databases to draw conclusions about a much larger set of the population.

A representative of Cellmark testified during the Prince hearing that using such a small sample is a scientifically accepted principle.

The first attack Hubbard is charged with occurred in September, 1990 and involved forcible rape, rape with a foreign object and residential burglary.

Five other rapes occurred from June 15 to July 20 of last year, including those of two girls 13 and 14 years old at Windansea Beach in La Jolla. On Aug. 15, Hubbard was arrested in connection with an attack on two young men and a woman at Torrey Pines State Beach in which the assailant was shot. The two male victims also were wounded.

Shortly after the early-morning assault, Hubbard checked into a nearby hospital with a gunshot wound in his hand. His police flashlight was found near the crime scene, and sand was discovered in his clothing.

His attorneys said at the time that Hubbard was not on the beach that morning but was attacked after his car broke down on a freeway following a late patrol shift. They suggested that fellow police officers had tried to set Hubbard up because he testified against the department in a federal trial.

Shortly after the story came out, co-counsel Allen Bloom left the case, citing a conflict. Steigerwalt said Tuesday that the original Hubbard alibi "hasn't been asserted since I started working on the case alone" but would not say what his defense will be.

Steigerwalt is seeking to have the Hubbard trial moved out of the county because of what he calls excessive publicity. He has also asked Superior Court Judge Herbert Exarhos to have the San Diego County district attorney's office removed from the case.

In court Thursday, Steigerwalt said several witnesses have reported to his investigators that they have been asked not to cooperate with the defense.

Exarhos has scheduled a hearing on those motions for March 30.

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